

16-240 WEAVER V. MASSACHUSETTS

DECISION BELOW: 54 N.E.3d 495

LOWER COURT CASE NUMBER: SJC-10932

QUESTION PRESENTED:

Because "most constitutional errors can be harmless," this Court has "adopted the general rule that a constitutional error does not automatically require reversal of a [criminal] conviction" and instead is subject to a "harmless-error analysis." *Arizona v. Fulminante*, 499 U.S. 279, 306 (1991). Among the constitutional violations subject to such analysis is ineffective assistance of counsel. See *Strickland v. Washington*, 466 U.S. 668 (1984).

At the same time, the Court has identified a category of "structural defects in the constitution of the trial mechanism, which defy analysis by 'harmless- error' standards." *Fulminante*, 499 U.S. at 309. The consequences of such errors are "necessarily unquantifiable and indeterminate" and are therefore not susceptible to a harmless-error inquiry. *Sullivan v. Louisiana*, 508 U.S. 275, 281-282 (1993).

The question presented is whether a defendant asserting ineffective assistance that results in a structural error must, in addition to demonstrating deficient performance, show that he was prejudiced by counsel's ineffectiveness, as held by four circuits and five state courts of last resort; or whether prejudice is presumed in such cases, as held by four other circuits and two state high courts.

CERT. GRANTED 1/13/2017